

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

UNITED STATES OF AMERICA                    )  
  )  
v.    )                   1:19CR261-1  
  )  
OCTAVIO LIZARRAGA AYALA                    )

**ORDER**

The motion to suppress by Defendant Octavio Lizarraga Ayala (Doc. 13) came on to be heard on August 12, 2019. Terry Meinecke, Assistant U.S. Attorney, appeared on behalf of the Government, and Ames Chamberlin, Assistant Federal Public Defender, appeared on behalf of the Defendant. After hearing evidence and argument on the motion, the court denied the motion with reasons as stated from the bench. This Order memorializes that determination.

The Fourth Amendment guarantees "[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." U.S. Const. amend. IV. "[T]he underlying command of the Fourth Amendment is always that searches and seizures be reasonable." Wilson v. Arkansas, 514 U.S. 927, 931 (1995) (quoting New Jersey v. T.L.O., 469 U.S. 325, 337 (1985)). "Because an automobile stop is a seizure of a person, the stop must comply with the Fourth Amendment's requirement 'that it not be "unreasonable" under the circumstances.'" United States v. Wilson, 205 F.3d 720, 722-23 (4th Cir. 2000) (en banc) (quoting

Whren v. United States, 517 U.S. 806, 809-10, (1996)). "As a result, such a stop 'must be justified by probable cause or a reasonable suspicion, based on specific and articulable facts, of unlawful conduct.'" Id. at 723 (quoting United States v. Hassan El, 5 F.3d 726, 729 (4th Cir. 1993)). "When an officer observes a traffic offense – however minor – he has probable cause to stop the driver of the vehicle." Hassan El, 5 F.3d at 730 (quoting United States v. Cummins, 920 F.2d 498, 500 (8th Cir. 1990)). "Probable cause exists if, given the totality of the circumstances, the officer 'had reasonably trustworthy information . . . sufficient to warrant a prudent person in believing that the petitioner had committed or was committing an offense.'" United States v. Brown, No. 2:12-cr-00418-DCN-1, 2012 WL 3680436, at \*3 (D.S.C. Aug. 27, 2012) (alterations omitted) (quoting Beck v. Ohio, 379 U.S. 89, 91 (1964)). Reasonable suspicion is a standard "less demanding . . . than probable cause," and requires only "'specific and articulable facts which, taken together with rational inferences from those facts,' evince 'more than an "inchoate and unparticularized suspicion or hunch" of criminal activity.'" United States v. Branch, 537 F.3d 328, 336 (4th Cir. 2008) (citations omitted).

As noted at the hearing, the court found that the Government demonstrated by a preponderance of the evidence that Deputy Best,

whose testimony the court found credible, had probable cause to conclude that Mr. Ayala violated N.C. Gen. Stat. § 20-152(a)<sup>1</sup> on February 12, 2019, by following too closely on Interstate 85, given the conditions at the time. Deputy Best offered specific, articulable facts which, taken together with rational inferences therefrom, supported his conclusion. Among them was his observation of Mr. Ayala driving his Nissan passenger car approximately one car length behind the vehicle in front of him when Mr. Ayala passed Deputy Best, who was stationed on the roadside. Deputy Best also noted the posted speed limit of 70 miles per hour and the low visibility due to heavy rain and cold. He described the temperature as "almost freezing" and the road conditions as "very slippery and very wet." The deputy testified that he calculated the need for approximately one car length for every 10 miles per hour, noting that at 70 miles per hour he would expect seven car lengths to be safe under dry conditions if "everything was perfect." The video from Deputy Best's dashboard camera, which began recording after the deputy had entered the highway, is consistent with his testimony of the weather conditions and demonstrates that the traffic was moving apace, consistent

---

<sup>1</sup> That statute provides: "The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicles and the traffic upon and the condition of the highway."

with the deputy's estimation that traffic was moving at or about the posted speed limit. Even at the time the deputy pulled Mr. Ayala's vehicle over for the violation, Mr. Ayala was following at a close enough distance to support his conclusion that it constituted a violation of the statute. These facts provided by Deputy Best show that he not only had articulable suspicion sufficient to justify the traffic stop, but also had probable cause to justify the traffic stop due to his reasonable belief based on the totality of the circumstances that Mr. Ayala was following the car in front of him too closely.

There is no challenge to Mr. Ayala's later consent to search his vehicle, which resulted in the seizure of approximately one kilogram of methamphetamine in a duffle bag and \$2,326 of United States currency.

IT IS THEREFORE ORDERED that the Defendant's motion to suppress (Doc. 13) is DENIED.

/s/ Thomas D. Schroeder  
United States District Judge

August 15, 2019